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PATENT APPLICATION
Docket No: 13914.849.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of)
)
Michael L. Olson)
)
Serial No.: 10/770,273) Art Unit
) 3764
Filed: February 2, 2004)
)
Confirmation No.: 9600)
)
For: EXERCISE DEVICE WITH RESISTANCE MECHANISM HAVING A)
PIVOTING ARM AND A RESISTANCE MEMBER)
)
Examiner: Unknown)

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that the following documents are being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Mail Stop: AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 17 day of November, 2005:

- Transmittal for Information Disclosure Statement (3 pgs.) (in duplicate)
- Information Disclosure Statement (4 pgs.)
- Form PTO-1449 (3 pgs.)
- Copies of ~~10~~ references
- Postcard ⁹

Respectfully submitted,

Linda Clark, Assistant to
Fraser D. Roy

Attorney for Applicant

Registration No. 45,666

Customer No. 022913

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Docket No: 13914.849.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



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| For: | EXERCISE DEVICE WITH RESISTANCE MECHANISM |) |
| | HAVING A PIVOTING ARM AND A RESISTANCE |) |
| | MEMBER |) |
| | |) |
| Examiner: | Unknown |) |

TRANSMITTAL FOR SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Sir:

Transmitted herewith for filing and pursuant to 37 C.F.R. § 1.97 is an Information Disclosure Statement, which includes the following statements, if any, required variously by 37 C.F.R. § 1.98:

- ☒ Statement of relevance of selected cited references not in the English language which are not translated.
- ☐ Statement that selected cited references are substantially cumulative of an enclosed or previously submitted reference.
- ☐ Statement that selected cited references were previously cited by or submitted to the United States Patent and Trademark Office in a prior application which is relied upon for an earlier filing date under 35 U.S.C. § 120.

A. Additional Materials Required Due to Content of Information Disclosure Statement

Transmitted are the following documents in addition to the Information Disclosure Statement as required variously under 37 C.F.R. § 1.98:

- ☒ Form PTO-1449 listing THIRTY (31) references submitted for consideration.
- ☒ Copies of TEN (10) references listed on the Form PTO-1449.
- ☐ English translations of _____ () of the references listed on the Form PTO-1449 which are not in the English language.
- ☐ Copies of the following documents from the prosecution of a previous, related application:
 - ☐ Form PTO-1449 AND INFORMATION DISCLOSURE STATEMENT; and
 - ☐ Form PTO-892

B. Additional Materials Required Due to Timing of Filing of Information Disclosure Statement

The transmitted Information Disclosure Statement is being filed within one (1) of the following four (4) time periods:

- I. ☒ Prior to the later of either three (3) months following the filing date or the mailing of a first Office Action. Accordingly, no materials other than those listed above are enclosed.
- II. ☐ Following the latter of either three (3) months following the filing date or the mailing of a first Office Action, but before the mailing of a final Office Action or a Notice of Allowance. Accordingly, to secure consideration thereof, one (1) of the following is also enclosed:
 - ☐ Promptness Certification; or
 - ☐ Credit Card Payment Form PTO 2038 in the amount of \$180.00 constituting the submission fee set forth in 37 C.F.R. § 1.17(p).
- III. ☐ After the mailing of a Notice of Allowance, but before payment of the Issue Fee. Accordingly, in order to secure consideration thereof, each of the following are also enclosed:
 - ☐ Promptness Certificate;
 - ☐ Petition for Consideration; and
 - ☐ Check No. in the amount of \$ _____ constituting the petition fee set forth in 37 C.F.R. § 1.17(i)(1).

IV. _____ After payment of the Issue Fee. Accordingly, in order to secure consideration thereof, each of the following are also enclosed:

_____ Petition to Withdraw from Issue; and

_____ Check No. _____ in the amount of \$ _____ constituting the petition fee set forth in 37 C.F.R. § 1.17(i)(1).

C. Fees

The Commissioner is hereby authorized to charge payment of or any deficiency in the following fees associated with this communication, or to credit any overpayment thereof, to Deposit Account No. 23-3178. A duplicate copy of this letter is enclosed.

X Any fee required in relation to filing of this letter or any documents transmitted therewith.

_____ The submission fee set forth in 37 C.F.R. § 1.17(p) in the event that 37 C.F.R. § 1.97I applies and the Examiner is not satisfied that any Promptness Certificate submitted meets the requirements of 37 C.F.R. § 1.97(e).

_____ The submission fee set forth in 37 C.F.R. § 1.17(p).

_____ The petition fee set forth in 37 C.F.R. § 1.17(i)(1).

Dated this 17 day of November, 2005.

Respectfully submitted,



Fraser D. Roy
Attorney for Applicant
Registration No. 45,666
Customer No. 022913
Telephone No. (801) 533-9800



PATENT APPLICATION
Docket No: 13914.849.1

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| HAVING A PIVOTING ARM AND A RESISTANCE MEMBER |) | |
| |) | |
| Examiner: Unknown |) | |

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. § 1.97

Mail Stop: AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Please find, pursuant to 37 C.F.R. § 1.98(a)(1), the enclosed Form PTO-1449 which contains a list of all patents, publications, or other items that have come to the attention of one or more of the individuals designated in 37 C.F.R. § 1.56(c). While no representation is made that any of these references may be "prior art" within the meaning of that term under 35 U.S.C. §§ 102 or 103, the enclosed list of references is disclosed so as to fully comply with the duty of disclosure set forth in 37 C.F.R. § 1.56.

Moreover, while no representation is made that a specific search of office files or patent office records has been conducted or that no better art exists, the undersigned attorney of record believes that the enclosed art is the closest to the claimed invention (taken in its entirety) of which the undersigned is presently aware, and no art which is closer to the claimed invention (taken in its entirety) has been knowingly withheld.

Statement of Relevance of References Listed
Unaccompanied by English Translation
Under 37 C.F.R. § 1.98(a)(3)

In accordance with 37 C.F.R. § 1.98(a)(3), the following concise explanation of the relevance of each listed reference that is not in the English language and unaccompanied by a translation into English is provided:

German Patent No. DE 2707550, Issued 08/24/1978: Exercise frame with spring loaded hinged lever – has motor driven lead-screw spindle for regulating spring force by remote control. The exercising frame (1) includes one or two hinged levers (3) which are operated by arm or leg movement. A tension spring (5) which is attached to the fixed frame support and the hinged lever provides the additional force that must be overcome when using the exercising frame.

The spring anchor point (7) on the hinged lever is carried by a screw spindle (8) which runs parallel with the spindle directly or by a flexible drive shaft (14). The person using the frame can then adjust the spring force without stopping the exercise by a remote control motor switch.

Netherlands Patent No. NL 8005-681, Issued 5/3/1982: Exercising appts. with pivoting part – has sitting plank adjustable to coincide axis with that of limb exercised. The exercising appts. comprises a fixed frame with a plank for sitting or lying, adjustable for height and

angle, also a part pivoting on the frame. A spring is attached between points on this part and on the frame and whose distance apart varies as the part is turned.

The plank (5) and the axis of rotation (13) of the pivoting part (14) can be adjusted to suit the measurements of the user's body, so that when he or she is in a predetermined position the axis coincides with that of the limb to be exercised.

East German Patent No. DD 242563, Issued 2/4/1987: Muscle exercise machine – consists of powered and weighted levers with telescopic bar. The muscle exercise machine has a powered lever and a weighted lever. At a relatively large distance from the point at which the powered lever is linked, and at a relatively short distance from where the weighted lever is linked, are jib arm firmly fixed.

Both jib arms extend towards the other lever and are connected by a coupling at their free ends. The free end of the powered lever is in the form of a telescopic bar, sliding a slide piece.

ADVANTAGE – The exercise machine is designed so that the exercise has to overcome a resistance by pulling or pushing a powered and weighted lever, with the mass of the weight being less than the force applied by the person.

German Patent No. DE 3541980, Issued June 4, 1987: Body muscle exercise machine – has frame with spring-loaded lever, with threaded spindle and screw nut. The body exerciser consists of a frame to which is linked at least one lever which the user moves against the force of a spring (3). The spring tension is adjusted by a threaded spindle with screw nut and pivot mounted plates (6) on both sides.

The end of the spring (3) next to the screw nut fits into a movable bearing (9) joined to the screw nut. A shaft goes through the movable bearing (9) and has a roller bearing at each end resting against a plate (11) joined to both bearing-plates (6).


USE/ADVANTAGE – The threaded spindle of the body exercising machine is not stressed when the tension of the spring is altered.

In accordance with 37 C.F.R. §§ 1.97 and 1.98, a copy of each of the required references or relevant portion thereof is also enclosed.

Please credit any over payment or charge any additional fees to Deposit Account No. 23-3178 of the undersigned.

Dated this 11 day of November, 2005.

Respectfully submitted,



Fraser D. Roy
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FDR/lrc
LC0000002465V001

Applicant:

Olson

Serial No.:

10/770,273

Att'y Docket No.: 13914.849.1

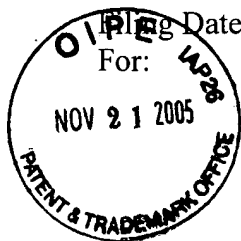
Filing Date:

February 2, 2004

Group: 3764

For:

EXERCISE DEVICE WITH RESISTANCE MECHANISM HAVING A PIVOTING ARM AND A RESISTANCE MEMBER

INFORMATION DISCLOSURE CITATIONS MADE BY APPLICANTU.S. Patent Documents

| <u>Examiner Initial*</u> | <u>Document Number</u> | <u>Issue Date/ Publication Date</u> | <u>Name</u> |
|------------------------------|----------------------------|---|-------------------|
| ____ A1 | 3,588,101 | June 28, 1971 | Jungreis |
| ____ A2 | 3,638,941 | February 1, 1972 | Kulkens |
| ____ A3 | 3,902,717 | September 2, 1975 | Kulkens |
| ____ A4 | 4,627,614 | December 9, 1986 | de Angeli |
| ____ A5 | 4,643,420 | February 17, 1987 | Riley, et al. |
| ____ A6 | 4,650,185 | March 17, 1987 | Cartwright |
| ____ A7 | 4,856,775 | August 15, 1989 | Colledge et al. |
| ____ A8 | 4,863,161 | September 5, 1989 | Telle |
| ____ A9 | 4,911,436 | March 27, 1990 | Lighter |
| ____ A10 | 5,419,751 | May 30, 1995 | Byrd, et al. |
| ____ A11 | 5,435,799 | July 25, 1995 | Lundin |
| ____ A12 | 5,435,801 | July 25, 1995 | Hung |
| ____ A13 | 5,722,922 | March 3, 198 | Watterson, et al. |
| ____ A14 | 5,836,854 | November 17, 1998 | Kuo |
| ____ A15 | 5,961,423 | October 5, 1999 | Sellers |
| ____ A16 | 6,106,439 | August 22, 2000 | Boland |

Examiner:

Date Considered:

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609, draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Applicant:

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| | | | |
|-----------|--------------|-------------------|--------------|
| _____ A17 | 6,135,927 | October 24, 2000 | Lo |
| _____ A18 | 6,190,289 | February 20, 2001 | Pyles et al. |
| _____ A19 | 6,551,217 | April 22, 2003 | Kaganovsky |
| _____ A20 | 6,685,607 | February 3, 2004 | Olson |
| _____ A21 | 2002/0086779 | July 4, 2002 | Wilkinson |

Foreign Patent Documents

| <u>Examiner Initial*</u> | <u>Document Number</u> | <u>Publication Date</u> | <u>Country or Patent Office</u> | <u>Translation</u> |
|------------------------------|----------------------------|-----------------------------|-------------------------------------|--------------------|
| _____ A22 | 2707550 | August 1978 | Germany | |
| _____ A23 | 3541980 | June 1987 | Germany | |
| _____ A24 | 242563 | February 1987 | Germany | |
| _____ A25 | 8005681 | May 1982 | Netherlands | |

Other Documents

Examiner

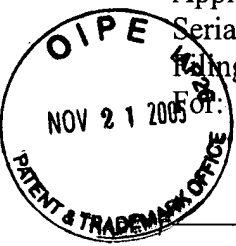
Initial*

| | |
|-----------|---|
| _____ A26 | Co-pending U.S. Patent Application to William T. Dalebout, Michael L. Olson, Darren C. Ashby, and Darren Zaugg, entitled Elliptical Exercise Machine with Integrated Anaerobic Exercise System, Serial No. 10/916,684, filed August 11, 2004. |
| _____ A27 | Owner's Manual for Impex Fitness Products, <i>Powerhouse Home Gym WM 1400</i> , Revised June 30, 2000. |
| _____ A28 | Website page of Impex, dated November 6, 2001. |
| _____ A29 | Website pages of Impex, dated December 11, 2001 (16 pages). |

Examiner:

Date Considered:

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609, draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

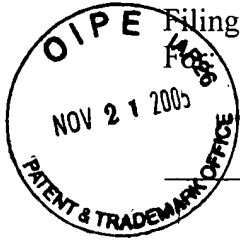


Applicant:
Serial No.:
Filing Date:Olson
10/770,273

Att'y Docket No.: 13914.849.1

Group: 3764

February 2, 2004

EXERCISE DEVICE WITH RESISTANCE MECHANISM HAVING A PIVOTING ARM AND A
RESISTANCE MEMBER

A30

Horizon Series E30 E20 [online] [retrieved on 2004-07-27] Retrieved from the
Internet: URL: <http://www.horizonfitness.com/horizon-series/ellipticals/e20.php>

A31

Horizon Elliptical Series [online] [retrieved on 2004-07-27] Retrieved from the
Internet: URL: <http://www.horizonfitness.com/horizon-series/ellipticals/elliptical-spec.php>

References Cited by Applicants

While the filing of Information Disclosure Statements is voluntary, the procedure is governed by the guidelines of Section 609 of the Manual of Patent Examining Procedure and 37 C.F.R. §§ 1.97 and 1.98. To be considered a proper Information Disclosure Statement, Form PTO-1449 shall be accompanied by a copy of each listed patent or publication or other item of information and a translation of the pertinent portions of foreign documents (if an existing translation is readily available to the applicant), an explanation of relevance of each reference not in the English language, and should be submitted in a timely manner as set out in MPEP Sec. 609.

Examiners will consider all citations submitted in conformance with 37 C.F.R. § 1.98 and MPEP Sec. 609 and place their initials adjacent the citations in the spaces provided on this form. Examiners will also initial citations not in conformance with the guidelines which may have been considered. A reference may be considered by the Examiner for any reason whether or not the citation is in full conformance with the guidelines. A line will be drawn through a citation if it is not in conformance with the guidelines AND has not been considered. A copy of the submitted form, as reviewed by the Examiner, will be returned to the applicant with the next communication. The original of the form will be entered into the application file.

Each citation initialed by the Examiner will be printed on the issued patent in the same manner as references cited by the Examiner on Form PTO-892.

The reference designations "A1," "A2," etc. (referring to Applicant's reference 1, Applicant's reference 2, etc.) will be used by the Examiner in the same manner as Examiner's reference designations "A," "B," "C," etc. on Office Action Form PTO-1142.

LC0000002463V001

Examiner:

Date Considered:

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609, draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.